



December 3, 1999

Lieutenant Arturo Valdez
Central Records Division
City of McAllen Police Department
1501 Pecan Boulevard
McAllen, Texas 78501

OR99-3475

Dear Lieutenant Valdez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130204.

The City of McAllen Police Department (the "department ") received a request for eleven specified reports.¹ You indicate that you have released "front page" information from these reports as required by *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. – Houston[14th Dist.] 1975), *writ ref'd n.r.e. per curiam*. You have supplied reports 95-049880, 95-049881, and 95-048516 to this office for inspection. We assume that the requested reports that you have not submitted have been released. You claim that the subject information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706

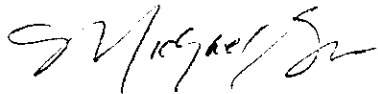
¹The Public Information Act requires a governmental body that wishes to withhold requested information to, within ten business days of its receipt of the written request for information, provide the requestor with (1) a statement that the governmental body wishes to withhold the information and has sought a decision from the Attorney General and (2) a copy of the letter submitted by the governmental body to the Attorney General requesting a decision. Gov't Code § 552.301. If the governmental body does not comply with the requirements of Government Code section 552.301, the requested information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. Gov't Code § 552.302. In this case, we cannot determine that you have complied with these requirements. This decision is contingent upon that compliance.

(Tex. 1977). In *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), the court delineated the law enforcement interests that are present in active cases. Open Records Decision No. 216 (1978). Thus, information may be withheld under section 552.108(a)(1) on a showing that the information is related to an ongoing investigation or prosecution.

The reports address incidences of the crime of burglary which occurred in 1995. Prosecution of the crime of burglary may be initiated until five years after the commission of the offense. Crim. Proc. Code art. 12.01(4)(a). Therefore, these reports relate to crimes which remain subject to prosecution. Each of the subject reports includes a notation that the respective investigation is "suspended." We construe this to indicate that the investigations of these cases remain open. We conclude that the release of the information "would interfere with the detection, investigation, or prosecution of crime." Other than the, "front page" information, which you have released, the information may be withheld under section 552.108(a)(1) of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 130204

Encl. Submitted documents

cc: Ms. Rebecca Vela
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(w/o enclosures)